

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Global Energy Franchise for Special
Contract Approval for Solar Services Agreement

231958
BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2011 - 339 - E

(Please type or print)

Submitted by: Christopher Jones

SC Bar Number: N/A

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input checked="" type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input checked="" type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	



August 31, 2011

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

RE: Docket No. 2011-339-E

Dear Mrs. Boyd:

Enclosed please find Global Energy Franchise's response to the Petitions to Intervene filed by Duke Energy, Progressive Energy, SCANA, and SCE&G regarding the above referenced docket. We are confident this matter will be given careful and fair consideration. Should you have any questions or concerns please contact me directly at 864-908-3770 (office) or 864-356-2689 (cell).

Regards,

Desimber Rose
Chief Administrative Officer
Global Energy Franchise

Attachment

cc: Nanette S. Edwards, Esq.
Len S. Anthony, Esq.
K. Chad Burgess, Esq.
Charles A. Castle, Esq.

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BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

John E. Howard
Chairman District 1

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District 5

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Vice-Chairman District 2

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Nikiya Hall
District 6

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**IN THE MATTER OF THE
APPLICATION OF GLOBAL ENERGY
FRANCHISE FOR SPECIAL CONTRACT
APPROVAL FOR SOLAR SERVICES
AGREEMENT**

DOCKET NO. 2011-339-E

**GLOBAL ENERGY FRANCHISE'S EXCEPTIONS TO THE
PARTIES ASSERTIONS AND PETITIONS TO INTERVENE**

This matter comes before the South Carolina Public Services Commission on the basis of Global Energy Franchise's Application for Special Contract approval for solar services, pursuant to S.C. Section 58-27-10 et. seq.

Global Energy Franchise ("GEF"), by and through its undersigned hereby files its exceptions to the parties assertions and petitions to intervene in the above entitled matter. Following the petition filed by Global Energy Franchise on August 17th, 2011 and prior to the Commission setting of this matter for public forum, the parties Progressive Energy, Duke Energy, SCANA, SCE&G,..et al filed their appearances beginning August 25th, 2011, with language indicating obvious opposition to GEF's application.

Notice is hereby given that it is the applicant's opinion that the above named parties have entered their appearances prematurely. Pursuant to the Commission's policies and procedures, this matter has not yet been set on a docket for public hearing. Therefore, the nature of convening any special meetings outside the purview of the Commission should be considered speculative and possibly obstructive. Applicant now enters its objections and thereby challenges all petitions to intervene.

Global Energy Franchise will be a full service installation business that provides customers with design, installation, maintenance and financing of solar services and equipment. The company is a start-up operation in South Carolina since March 2010.

GEF has worked extensively with corporate partners to develop a viable business model to attract schools, governments, and non-profit entities to find ways for them to utilize solar energy and save millions on electric bills through net metering. For schools, going solar can result in savings of millions of dollars that can be reinvested back to the schools to improve student education; however, solar equipment that is comparatively affordable for for-profit entities due to Federal tax credits, grants in lieu of credits, and depreciation credits (collectively referred to here-in as the “tax credits”) can be prohibitively expensive for non-profit organizations without a tax burden.

GEF offers a number of different financing options to its customers. One of these options is known as a Solar Service Agreement (“SSA”), designed to provide a means for non-profits to realize the significant benefits that result from Federal tax incentives. Government tax credits represent such a significant proportion of a system’s value that the only way a not-for-profit can acquire solar at an affordable price is through an SSA or similar arrangement.

The issue in this case is whether or not GEF becomes a regulated public service corporation simply by utilizing the financing arrangement in its dealings with schools, government, and other nonprofit entities.

Despite the fact that the SSA is merely a financing tool that GEF uses to provide solar to schools and other nonprofits, the opposition has concluded that when GEF enters into an SSA it becomes a public service corporation that the state needs to regulate. This conclusion is based upon faulty reasoning and misapplication of the law. Accordingly, we request that the commissioner incorporate the facts submitted by GEF in making its determination to grant GEF special contract approval.

What is an SSA?

An SSA is an agreement between a company (i.e. Global Energy Franchise) and its customer whereby the company designs, installs, maintains, and finances solar equipment and services at no upfront cost to the customer. Importantly, SSA’s allow nonprofit customers to monetize the Federal tax credits that make solar affordable. SSA’s cover a wide variety of non-power

contractual terms (including equipment operations and maintenance) and they provide customers with an option to buy the system at different periods during the contract.

In fact, to a nonprofit customer, the only difference between an SSA and any other financing mechanism available is the fact that an SSA allows the nonprofit to take advantage of Federal tax credits. The sole difference between an SSA and every other financing option is the utilization of the tax credits.

Under an SSA, the customer pays for all of the solar services provided by the installation company. The amount paid is based upon the cost and maintenance of the equipment and systems used to produce electricity. **Due to the fact that the customer is leasing the equipment, the customer owns all electricity produced the moment it is produced, and cannot and will not be resold or used by others. (See SECTION 58-27-10-7)**

The ultimate question is not what a SSA agreement does but instead, what GEF, the entity to be regulated does. The services GEF will provide under an SSA has been outlined above and demonstrates what GEF does is provide design, installation, maintenance and financing of solar equipment and services. GEF's intent upon entering into an SSA is merely to provide schools, government, and nonprofits with the same equipment and services that other types of customers can receive from GEF while allowing these entities to take advantage of otherwise stranded tax credits.

Based upon the misinterpretation of the Solar Services Agreement, the opposition has erroneously concluded that the GEF billing methodology indicates the relationship between GEF and its customers will be that of an electrical utility (See Progress Energy Petition Pg. 2). It has been clearly demonstrated within the SSA that the relationship between GEF and the customer is not that of an electrical utility and a customer. GEF's intent is to find a way for schools, government, and nonprofits to receive its services at a reasonable price. Any furnishing of electricity is merely incidental to the financing structure employed.

The petitions filed by the opposition are based upon this faulty premise, and approval of the petitions to intervene in any manner at this point is an overreaching, unwarranted extension of the Commission's regulatory authority. Jurisdiction is the quintessential basis of any agency's authority to act within the parameters of law, policies, and procedures which govern all parties and this matter.

The Commission's 2006 order adopting model interconnection standards pursuant to Section 1254 of the Energy Policies Act of 2005 requires that access to the agreements and procedures for interconnection services be just and reasonable, and not unduly discriminatory or preferential.

Consequently, any opposition to GEF's request to become South Carolina's first minority-owned, third party energy leasing equipment provider, is contrary to the Administration policy of modernizing our nation's electric grid, which it believes can be accomplished in a manner that is fair to interconnecting generators, utilities, and ratepayers. (See EPA Act Section 1254)

In light of the aforementioned facts in support of Global Energy Franchise's application for special contract approval, it is requested that the Commission issue an order:

- a) Granting Global Energy Franchise its process due under the Commission's mandate and statutory authority.
- b) Denying all petitions of any entity to intervene or become a formal party of record to a process to which it is not a party and has no decision-making authority prior to the Commission setting this matter to public forum in accordance with applicable policies and procedures.
- c) Denying any entity the right to present evidence, conduct cross-examination, or take any other action prior to the Commission setting this matter to public forum and for any other reasons than are necessary to determine GEF's eligibility for special contract approval.
- d) Denying any entity a right to receive copies of all filings, pleadings, testimony and exhibits prior to the Commission setting this matter to public forum, for any other reasons than are necessary to determine GEF's eligibility for special contract approval, and should such requests not be standard policy and/or procedure for the Commission to perform due process.
- e) Granting all other indiscriminatory relief as is just, fair and proper.

Respectfully submitted this 31st day of August, 2011.



Christopher Jones, Principal
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